

A court must make a *de novo* determination of those portions of the R&R to which objection is made and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge.” L. Civ. R. 72.1(c)(2); *see also* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). While this Court need not review a Magistrate Judge’s report before adopting it when no objections have been filed, *Thomas v. Arn*, 474 U.S. 140, 149 (1985), the Third Circuit has held that “the better practice is to afford some level of review to dispositive legal issues raised by the report,” *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). “[I]t must be assumed that the normal practice of the district judge is to give some reasoned consideration to the magistrate’s report before adopting it as the decision of the court.” *Id.* at 878.

This Court has carefully reviewed Magistrate Judge Falk’s R&R. As Magistrate Judge Falk observed, the Defendants have not met the “special burden” required of private parties seeking removal under the federal officer removal statute, 28 U.S.C. § 1442(a)(1). Specifically, Defendants have failed to establish that the discharge or disposal of waste on the site occurred under the “direct and detailed control” of a federal officer. R&R at 5. After a thorough review of the record and the R&R, the Court agrees with Magistrate Judge Falk’s reasoning and conclusions.

It is therefore hereby ORDERED that Magistrate Judge Falk’s November 3, 2006 Report and Recommendation is ADOPTED and Plaintiffs’ motion to remand is GRANTED. It is hereby further ORDERED that this case is REMANDED to the Superior Court of New Jersey.

Newark, New Jersey
Dated: December 7, 2006

/s/ Harold A. Ackerman
U.S.D.J.